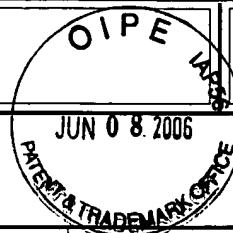


# TRANSMITTAL OF APPEAL BRIEF (Small Entity)

Docket No.  
A-7014.CIP

In Re Application Of: Jerry L. BLEVINS



Application No.	Filing Date	Examiner	Customer No.	Group Art Unit	Confirmation No.
10/785,024	February 25, 2004	Tara L. Mayo	20741	3671	9026

Invention: PATIENT LIFTER

## COMMISSIONER FOR PATENTS:

Transmitted herewith is the Appeal Brief in this application, with respect to the Notice of Appeal filed on:

December 1, 2005

☒ Applicant claims small entity status. See 37 CFR 1.27

The fee for filing this Appeal Brief is: \$250.00

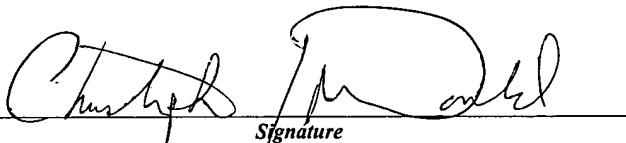
☒ A check in the amount of the fee is enclosed.

☐ The Director has already been authorized to charge fees in this application to a Deposit Account.

☒ The Director is hereby authorized to charge any fees which may be required, or credit any overpayment to Deposit Account No. 08-2455 I have enclosed a duplicate copy of this sheet.

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Signature

Dated: June 8, 2006

Christopher J. McDonald  
Reg. No. 41,533  
HOFFMAN, WASSON & GITLER, P.C.  
2461 South Clark Street, Suite 522  
Arlington, VA 22202  
(703) 415-0100

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on

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CC:

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of:

**Jerry L. BLEVINS**

Serial No: **10/785,024**

Filed : **February 25, 2004**

For : **PATIENT LIFTER**



Group Art Unit: **3673**

Examiner: **Tara L. Mayo**

**APPLICANT'S APPEAL BRIEF**  
**UNDER 35 U.S.C. §41.37**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

**(1) REAL PARTY IN INTEREST**

The real party in interest is Jerry Blevins, the inventor of the application.

**(2) RELATED APPEALS AND INTERFERENCES**

There are no related appeals and interferences.

**(3) STATUS OF CLAIMS**

Claim 1-12 are pending. Claims 6-8 and 12 are objected to and claims 1-5 and 9-11 stand rejected. The rejection of these claims is appealed.

#### **(4) STATUS OF AMENDMENTS**

An Amendment After Final Rejection was filed on September 23, 2005. An Advisory Action was mailed on October 13, 2005 addressing the arguments presented by applicant but did not indicate whether the amendment would be entered for purposes of appeal. As the amendment only corrected errors in spelling and syntax, it is assumed it is entered for appeal.

#### **(5) SUMMARY OF CLAIMED SUBJECT MATTER**

Several embodiments of a patient lifter are disclosed in Figures 1-35, each having a base 22,24 with upwardly extending posts 31,32. A patient support surface 41 extends between the posts and is raised and lowered by the upper part of the posts being drawn together and the base parts 22,24 moving away from one another. The description of the various mechanisms for raising and lowering the patient support surface are described in paragraphs[0053] to [0079].

A second feature of the invention is a guard rail 1061 attached to a patient support surface by a pair of arm 1065, as seen in Figure 36. The arms are pivotally connected to the bottom of the support surface so that they may be moved out of the way, as depicted in Figure 42. The arms 1065 may be formed by two section in an L-shape and pivotally connected to one another to fold flat against the bottom of the support surface as illustrated in Figure 40 and described in paragraph [0081].

**(6) GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL**

1. Claims 1-5 are rejected under 35 USC 102(b) as being anticipated by U.S. Patent 6,430,761 (Brandorff et al.).

2. Claims 9-11 are rejected under 35 USC 103 as being obvious over US 4,939,801(Schaal et al.) in view of US 6,691,345(Nanahara).

**(7) ARGUMENT**

Claims 1-5 rejected under 35 USC 102(b) as being anticipated by U.S. Patent 6,430,761 (Brandorff et al.).

Claim 1 recites "a substantially planar patient support for supporting a patient." Brandorff et al. discloses a sling cloth 102 connected to arms 62 by loops 103. The sling cloth is best seen in Figures 1A, 1D and Figure 3. As best seen in Figure 1D, the sling is U-shaped and it is an unreasonable interpretation of a U-shaped sling to be substantially planar.

Claims 9 and 11 rejected under 35 USC 103 as being obvious over US 4,939,801(Schaal et al.) in view of US 6,691,345(Nanahara).

Claims 9-11 are rejected as unpatentable over U.S. Patent No. 4,939,801, Schaal et al., in view of U.S. Patent No. 6,691,345 (Nanahara). The Examiner relies upon Nanahara for disclosing the specifics of the railing. Claim 9 is directed to and recites a patient support having a railing extending upwardly from the second side edge of the patient support. The railing is connected to an L-shaped arm. One end of the L-shaped arm is connected to the railing and the second end is pivotally connected to the bottom surface of the patient support.

Nanahara discloses a side rail connected to the side edge of a support surface, not the bottom edge, as is claimed. The

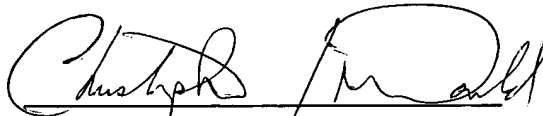
connection to the side edge results in the railing moving in a vertical plane parallel to the side edge. This is in contrast to the movement of the side rail of the invention, which folds underneath the bottom surface of the patient support.

Claim 10 rejected under 35 USC 103 as being obvious over US 4,939,801(Schaal et al.) in view of US 6,691,345(Nanahara).

Claim 10 further specifies that the L-shaped arm includes a first and second section pivotally connected together. The L-shaped arm of Nanahara has two sections 110, 111, but these two sections are rigidly connected to one another and have no pivot connection. A third member 117 is connected to the L-shaped arm at pivot point 115, but this does not change the fact that the two sections 110, 111 have no pivotal movement relative to one another. The Examiner has stated that inherent to an L-shape, one section can move relative to the other section. This statement is not understood, as two sections of an L-shape can be rigidly connected to one another, allowing no relative movement between them.

It is respectfully requested that the rejections be overturned and the application allowed to issue.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Christopher J. McDonald", written over a horizontal line.

Christopher J. McDonald  
Reg. No. 41,533

June 8, 2006  
HOFFMAN, WASSON & GITLER, PC  
2461 South Clark Street  
Suite 522  
Arlington, VA 22202  
(703) 415-0100

**CLAIMS APPENDIX**

## 1. A patient lifter comprising:

a substantially planar patient support for supporting a patient having a top surface, a bottom surface, a first side edge, a second side edge, a top edge and a bottom edge, the distance between the top and bottom edges defining a first width,

a support frame for supporting said patient support, said support frame attached to said first side edge and comprising at least one post and a cross member,

a pair of bases extending outwardly from said support frame and engaging the ground, said pair of bases comprising a first base having a first end attached to said support frame and a second end spaced from said support frame and a second base having a first end attached to said support base and a second end spaced from said support frame,

wherein said pair of bases have a first position with said first and second bases extending from said support frame toward said second side edge, said second ends of said first and second bases are spaced from each other by a second width smaller than said first width and a second position wherein said second ends of said first and second bases are spaced from each other by a third width greater than said first width.

2. The patient lifter of claim 1, wherein said support frame comprises a pair of posts, said cross member extending between said pair of posts.

3. The patient lifter of claim 1, wherein said first base and said second base are parallel in the first position.

4. The patient lifter of claim 1, wherein said first and second bases are pivotally connected to said support frame.

5. The patient lifter of claim 1, wherein said first and second bases are rigidly connected to said support frame.

6. The patient lifter of claim 1, further comprising a railing extending upwardly from said second side edge,

at least one L-shaped arm having one end connected to said railing and a second end pivotally connected to the bottom surface of the support surface.

7. The patient lifter of claim 6, wherein said at least one L-shaped arm includes a first section and a second section, said first section and said second section pivotally connected together.

8. The patient lifter of claim 6, wherein there are two L-shaped arms.

9. A patient lifter comprising:

a patient support for supporting a patient having a top surface, a bottom surface, a first side edge, a second side edge, a top edge and a bottom edge, the distance between the top and bottom edges defining a first width,

a support frame for supporting said patient support, said support frame attached to said first side edge and comprising at least one post and a cross member,

a railing extending upwardly from said second side edge, and

at least one L-shaped arm having one end connected to said railing and a second end pivotally connected to the bottom surface of the support surface.

10. The patient lifter of claim 9, wherein said at least one L-shaped arm includes a first section and a second section, said first section and said second section pivotally connected together.

11. The patient lifter of claim 9, wherein there are two L-shaped arms.

12. The patient lifter of claim 1, wherein the patient support has a first position when said pair of bases are in their first position and a second position when said pair of bases are in their second position, said patient support second position being lower than said patient support first position.



**EVIDENCE APPENDIX**

None

**RELATED PROCEEDINGS APPENDIX**

None